



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT  
DEPARTMENT OF INDUSTRIAL ACCIDENTS

CHARLES D. BAKER  
GOVERNOR

KARYN E. POLITO  
LIEUTENANT GOVERNOR

RONALD L. WALKER, II  
SECRETARY

LINDA EDMONDS TURNER, Ph.D.  
DIRECTOR

**ADMINISTRATIVE BULLETIN**

To: **ALL PARTIES**  
From: Omar Hernández, Senior Judge  
Re: Opioid Alternative Treatment Pathway  
Date: June 12, 2017

**Introduction**

The Department of Industrial Accident (DIA) is launching a two year pilot program called the Opioid Alternative Treatment Pathway (OATP) which aims to be another tool to address the state's opioid epidemic by giving attorneys, judges, and injured workers within the DIA system quicker access to medical professionals to make treatment decisions.

The OATP will only be available in cases where the injured worker has executed a lump sum settlement on an accepted basis but continues to treat with opioids. This is a voluntary process.

**How does it work?**

Either the Insurer or the injured worker can initiate a request to participate in the OATP. The new program can be accessed through new online forms, Forms 110A and 108A. **If both parties agree to participate, the insurer incurs the cost of the program including alternative medical treatments for the injured worker as well as all referral fees.**

After filing the new online forms, the parties will receive a conciliation notice. If at the conciliation the parties agree that they are interested in entering the OATP, the parties will receive a notice to appear for an OATP conference.

**What are the parties' obligations?**

A Mediating Judge will be assigned to the OATP conference and the parties will have an opportunity to negotiate and enter into a Form 19A agreement. The goal of the initial Form 19A is for the parties to formulate and memorialize their understanding of the initial goals in entering into the OATP, the procedure they plan to follow in reaching

those goals; and the obligations of the parties with regard to participation, payments, time frames, costs, and fees.

The Employee will execute a comprehensive medical authorization and release at or before the time he or she signs the initial Form 19A agreement and will execute any additional medical authorizations for relevant records as required by the Mediating Judge. In recognition of the complexities of treating individuals with long-term opioid use, the medical authorization and release will cover the release of medical records and mental health treatment records.

Once the initial Form 19A agreement is signed and approved by the Mediating Judge, the insurer will incur the cost of a specially qualified Care Coordinator with knowledge and experience in dealing with issues relating to the long-term use of opioids to assist and direct care for the Employee.

A §13A(3) Conference fee will be due to the Employee's counsel upon approval of the initial Form 19A agreement by the Mediating Judge and for every executed Form 19A agreement thereafter.

#### **What if there is pending matter before the DIA?**

If the parties have a pending matter before an Administrative Judge at the Conference or Hearing level and would like to participate in the OATP, the parties must request an Administrative Withdrawal from the presiding Administrative Judge. Once the Administrative Withdrawal has been entered, the parties will have to file a Form 110A or 108A in order to participate in the OATP. The referral fee will be waived in only these circumstances.

#### **What if the parties are unable to complete the OATP?**

At any time after entering into the OATP and the parties are unable to meet their OATP goals, they will have the option of leaving the OATP and moving back into the traditional litigation track. Regardless of how long the parties have been working through the OATP or what progress they had reached toward their goals, if either party request a return to the traditional litigation track, the case will be removed from the OATP and placed in the queue for a Conference with a different Administrative Judge.

The Administrative Judge will not be permitted to inquire about, or make any assumptions or inferences about participation in the OATP or the return to traditional litigation.

#### **Who retains jurisdiction?**

The Mediating Judge will retain jurisdiction over the case until the OATP is completed or the case returns to a traditional litigation track. If the case returns to the OATP system in the future, the case may return to the same Mediating Judge.